

VZCZCXRO0861
PP RUEHGR
DE RUEHSP #0615/01 1391305
ZNR UUUUU ZZH
P 191305Z MAY 06
FM AMEMBASSY PORT OF SPAIN
TO RUEHC/SECSTATE WASHDC PRIORITY 6863
INFO RUCNCOM/EC CARICOM COLLECTIVE

UNCLAS SECTION 01 OF 03 PORT OF SPAIN 000615

SIPDIS

SIPDIS
SENSITIVE

DEPT FOR WHA/CAR

E.O. 12958: N/A
TAGS: [PGOV](#) [KJUS](#) [TD](#)
SUBJECT: T&T BACCHANAL: CHIEF JUSTICE ACCUSED OF
INTERFERING IN PANDAY CASE

REF: PORT OF SPAIN 00488

11. (SBU) SUMMARY: The Chief Justice of Trinidad and Tobago, Satnarine Sharma, stands accused of attempting to influence the outcome of the Panday Integrity Commission case (reftel). Given the seriousness of the situation, PM Manning canceled his trip to Europe for two high-level summits. Information remains incomplete, however, and the situation is ongoing. The ultimate legal question is what Sharma's motivation was in speaking with the Chief Magistrate and a State Prosecutor in the case about one of Panday's lines of defense. Politically, the scandal has brought the major ethnic fault line in the country into sharp focus. It also renews charges that PM Manning is trying to consolidate an excessive amount of power in his own hands. END SUMMARY.

12. (U) Trinidad and Tobago's latest public scandal again brings the Chief Justice, Satnarine Sharma, under scrutiny for allegedly attempting to influence Chief Magistrate Sherman McNicolls' decision in the Panday Integrity Commission case (reftel). This is the second time that Sharma has been reported to the President for alleged misconduct in judicial matters. In February 2005, Prime Minister Manning accused him of suggesting to the Director of Public Prosecutions, Geoffrey Henderson, and the Attorney General, John Jeremie, that they terminate a murder case against one of Sharma's associates (who was later found not guilty). Sharma's first case is still before the court of which he requested a review.

WHAT WE KNOW

13. (U) The facts that we can discern right now are that McNicolls has alleged, in a letter to the PM, interference in the judicial process on the part of Sharma. Manning informed the President, George Maxwell Richards, and then arranged a meeting with Sharma to discuss the allegations. Sharma then lodged his own complaint against McNicolls with the Joint Legal Services Commission about a real estate deal McNicolls concluded recently with a company headed by Lawrence Duprey, one of Panday's witnesses, and the person responsible for the disputed "scholarship" given to Panday's wife for his daughters' education. Manning called for a meeting with Sharma the next day, May 9, reportedly about this issue, and a subsequent one on May 10, canceling his trip Europe for the Spain-CARICOM and EU-Latin American and Caribbean meetings.

14. (U) Sharma's lengthy May 10 statement released in the print media claims that Chief Magistrate McNicolls called unannounced on Sharma on March 28, shortly after hearing the testimony in the Panday integrity case. Sharma claims that McNicolls volunteered that he was "impressed by the testimony of the defense witness Mr. Lawrence Duprey" and that "it was to his knowledge since his mother was an East Indian that in Hindu families the wives were traditionally entrusted with control of the family's financial affairs" (this "Hindu family finance" defense in the Panday case plays a large role in the controversy). Sharma claims that he simply suggested McNicolls should write his verdict soon, while the matter was still fresh in his memory.

15. (U) Sharma's statement also spends significant time on an allegedly suspicious real estate deal between McNicolls and a company headed by Panday witness and benefactor Lawrence Duprey. Sharma's statement implies that McNicolls should have recused himself from the Panday case because of it. On May 8, Sharma filed a complaint against McNicolls with the Judicial and Legal Services Commission, arguing that McNicolls falsely and maliciously made a report to the Prime Minister that Sharma attempted to influence the Panday decision.

MCNICOLLS' TAKE

16. (U) According to media reports (since his letter to
PORT OF SP 00000615 002 OF 003

Manning has not been made public), Chief Magistrate McNicolls stated that it was the Chief Justice who summoned him to his Chambers sometime before Panday's trial started and told him about the "Hindu family finance" defense. The Chief Magistrate said he became suspicious when Panday used the same argument as part of his defense. McNicolls further stated that he was again summoned by Sharma on March 28, the day after the case was closed, and was advised to look at the case from certain angles, particularly, that the charges against Panday were laid at a time when the possibility of elections was in the air and to consider the public perception that the charges were politically motivated. He added that Sharma wanted to see a copy of his judgment before he delivered the verdict.

17. (U) Further, Manning also received a report from Sir Timothy Cassel, QC, one of the State's prosecutors in the Panday case, that Sharma had raised the Hindu family finance defense with him while on a flight prior to the start of the case.

MANNING'S CLARIFICATION

18. (U) PM Manning entered the public fray and read a prepared speech in Parliament on May 12. He stated that he explained to Sharma "that there was already one matter unresolved with accusations against him and this additional accusation had now come forward which he should exercise the option to demit office voluntarily rather than be subject to any administrative or criminal proceeding which may possibly be proffered against him." Manning asserted that Sharma became distraught and emotional in this meeting. Manning further stated that he would proceed methodically in this case and seek input from his legal advisors on the best way forward with impeachment proceedings.

GOVERNMENT ACTIONS AND PUBLIC RESPONSES

¶9. (U) On May 11, Attorney General Jeremie wrote to both the Director of Public Prosecutions and the Acting Commissioner of Police to initiate a criminal investigation into the entire matter, including looking into his own involvement. This criminal investigation continues while Manning's potential impeachment proceedings are on hold under judicial review.

¶10. (U) The Law Association and other legal bodies have condemned Manning for threatening Sharma and not following the procedure outlined in the constitution, equating it with a power grab. The opposition United National Congress (UNC) has picked up on this refrain, and has worked this into their ongoing message against PM Manning and the Peoples' National Movement (PNM) for their alleged abuses of power.

INCONSISTENCIES ON ALL SIDES

¶11. (SBU) COMMENT: Sharma's report of McNicolls' opinion of the Panday case directly contradicts what McNicolls wrote in his judgment, which includes the opinion that Duprey's testimony was not believable. Clearly, at least one is being untruthful. Sharma's extensive discussion of McNicolls' real estate deal seems to be primarily a diversionary tactic that may backfire by undermining Sharma's own credibility, even if the deal improperly influenced Sharma's decision. Further, Manning's statement only deepened, rather than calmed, the crisis, reinforcing the UNC-held perception that the PNM is out to grab power.

¶12. (SBU) COMMENT CONTINUED: The legal case boils down to what Sharma's motivation was in raising legal issues with McNicolls and the Hindu family finance defense with Cassel. Sharma may have been simply making conversation and engaging in a collegial discussion of legal matters, or he may have been attempting to direct parties in certain directions. Sharma has sided with Panday in legal matters before. In 2003, Sharma penned a dissenting opinion supporting Panday while on a tribunal hearing a libel case.

PORT OF SP 00000615 003 OF 003

¶13. (SBU) COMMENT CONTINUED: There is basically no impartial observer in this case, and everyone involved is spinning things his own way. Further, the case immediately took on political overtones, with PNM supporters supporting the PM and UNC supporters the Chief Justice. The case also exacerbates the ethnic tension between Afro-Trinis and Indo-Trinis, Indo-Trinis seeing this as yet another move by the predominately Afro-Trini PNM to assert power and to remove prominent Indo-Trinis from influential positions. The President may ultimately be required to determine whether to institute impeachment proceedings for which he must appoint a tribunal to oversee the case. END COMMENT.

AUSTIN